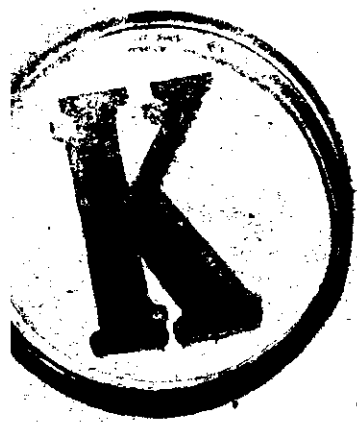




1951

File No. Wild Animals
II/51 (R)

Legal Department

B

BRANCH

Subject:— Rules under the
Bombay Wild Birds Protection Act,
1951.

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E

File No. Wild Animals II/51 (R)

Office of the R.I.A.

In place of the drafts at page 1 to 65 ante, revised drafts are sent herewith, subject to the following observations:-

General

In the set prepared by the Department, the draft Rules and By-laws have been mixed up. In framing the Rules and By-laws, the provisions and limitations of sections 8 and 48 are required to be kept in view. The forms to be attached to the Rules form part of the Rules and should therefore go with the Rules. The Rules are to be made by Government and are subject to the condition of previous publication. The By-laws are to be made by the Advisory Board which will be constituted after the Act is brought into force and need not be published in the Gazette. Separate revised drafts of the proposed Rules and By-laws are sent herewith.

Draft Rules.

Draft rule I in the Department's draft: In the definitions of the expressions "pet animal" and "wild animal and wild bird" the reference should be restricted to the animals and birds found in the State of Bombay and not in the Indian Union, as the Act extends only to the State.

Draft rule II(2) and (3) : It cannot be laid down ~~definition of the expressions "pet animal" and "wild animal and wild bird"~~ in these Rules that applications shall be made and fees paid to the authorities competent to ~~and~~ issue arms licences. For this purposes the officers concerned will have to be authorised separately under section 11. Such officers cannot be authorised by rules.

~~Draft~~ Draft rule II(7) : The proposed provision amounts to delegating to the Wild Preservation Officer the power to declare close time, which can be exercised by Government alone under section 16, It is, therefore, deleted.

Draft rule III(6) : It is unnecessary (See section 9) .

Draft rule III(10) : It is outside the scope of the rule making powers conferred by section 48 and such provisions are also redundant (See sect on 48).

Draft rules IV (7) and (10): Same remarks as above.

Draft rule IV (11): Attention is invited to the letter No. 17/59//51 Judl. dated 18-7-51 from the Government of India, Ministry of Home Affairs (copy enclosed for ready reference). While given assent to the Bill, the Government of India has given a warning that when the rules are made care should be taken to see that liabilities which it may be difficult for a licensee to comply should not be imposed on him. The proposed provision and similar provisions should therefore be suitably modified or deleted.

Draft rule V: No rule can be made ^{on} the subject of close time. A ~~separate~~ separate notification will have to be issued for the purpose under section 16.

Draft rules VI (1), (4), (11), (12), (13) and (14): These are outside the purview of section 48 and are, therefore, deleted.

Forms S.G. and S.B.G. : As pointed out above the power to declare close time vests in the State Government under section 16 and will have to be exercised separately by notification in the Gazette. Similarly the power to amend the Schedules to the Act cannot be exercised by Government by rules but will have to be exercised by issuing separate

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notifications in the Gazette under section 49, It will not be legal to insert in the licences revised Schedules and the close times for different animals and birds. It is sufficient to say in the licence that the licensee is entitled to shoot except during the close time. The licensee is bound to comply with section 17(9) , ~~which~~ which prohibits a licensee from hunting during close time.

DRAFT ~~RE~~ SCHEDULES

As stated above the power to amend the Schedules to the Act will have to be exercised by issuing separate notification under section 49. The purposes for which the Schedules can be amended have been specified in section 49. It is not necessary to substitute revised Schedules but only necessary amendments should be made in the existing Schedules.

It was already decided at the time of the passing of the Act that the Latin equivalent names are not necessary and should be avoided.

Id/- J.R.D.
dt/- 20/12/

Remembrancer of Legal Affairs.

U.R. to Agricultural and Forests Department No. 20351

dated the 20th December 1951.

V.V.K. 9/7/56/